**S.B. Civil Misc. Appeal No.1447/2006.**
**(Kishan Lal Vs. Roop Singh & Ors. )**

Date of Order :: 8th January 2007.

**HON'BLE MR. JUSTICE DINESH MAHESHWARI**

Mr. B.L. Choudhary, for the appellant.

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Having heard learned counsel for the appellant and having scanned through the entire record, this Court is satisfied that this appeal by the claimant seeking enhancement over the amount of Rs.87,000/- awarded by the Tribunal towards compensation for the loss suffered by him due to the injuries sustained in accident remains bereft of substance and does not merit admission.

The claimant-appellant, then about 27 years in age, suffered fracture of tibia and fibula bones in the vehicular accident that occurred on 07.06.2003; and the Medical Board in its report dated 06.02.2004 (Ex. 16) has certified his permanent disability at 20% with reference, inter alia, to 'pain and difficulty in walking, limping, unable to squat and sit cross leg, unable to bear weight and to do hard work, stiff right ankle, shortening 1" right leg, muscle wasting'. The Tribunal has noticed that the claimant has failed to establish any loss of earning capacity or having lost his employment as a motor-

body mechanic but in the circumstances of the case has allowed Rs.45,000/- with reference to his disablement; Rs.31,130/- towards treatment expenditure on the basis of bills produced; Rs.2,000/- towards pains and sufferings; Rs.5,000/- towards loss of earning during treatment; and Rs.3,000/- towards transportation. Hence, the Tribunal has assessed the loss for the claimant at Rs.86,130/-; and providing for future treatment and litigation expenses has found him entitled for total compensation in the sum of Rs.87,000/- and has allowed interest @ 6% per annum from the date of filing of claim application.

The amount of Rs.45,000/- allowed by the Tribunal with reference to the disablement appears to be rather on higher side in the present case. The claimant-appellant had of course suffered fractures of tibia and fibula bones and took treatment at Udaipur and Ahmedabad but it appears that the injury has ultimately healed leaving no effect on his earning capacity. The claimant has produced a certificate Ex.18 from one M/s Krishna Motor Body Repairs stating payment of salary of Rs.5,000/- per month to him but neither the nature of job has been stated nor any supporting evidence in relation to the such certificate has been adduced nor there is any other material on record regarding any loss of earning capacity due to the injury or after-effects thereof. The certificate Ex.20

mentions about shortening one inch of right leg but the statement of the claimant-appellant before the Tribunal recorded on 02.06.2005 is conspicuously silent about any such shortening of leg.

The Tribunal has allowed Rs.31,130/- with reference to the bills and receipts produced by the claimant. However, it is noticed that such documents include the receipt Ex. 19 in the sum of Rs.1,820/- towards transportation charges. The Tribunal has yet allowed another amount of Rs.3,000/- towards transportation charges. The claimant has asserted the requirement of future treatment expenditure but noticeable it is that though the appellant has undergone treatment at Orthopedic & Trauma Centre, Ahmedabad but the receipt Ex.45 dated 11.03.2004 of Shreenath Hospital and Research Centre, Udaipur in the sum of Rs.3,000/- is for removal of nail and scrapping of wound ; and the receipt Ex.63 issued on 22.03.2005 by the same Shreenath Hospital & Research Centre, Udaipur for Rs.4,000/- is of payment for his treatment on 04.04.2004 particularly for removal of rod and dressing. It appears that before his statements were recorded, the treatment of the claimant-appellant was complete and there was no requirement of future medical expenditure in relation to the injuries sustained in the accident.

On an overall view of the matter, this court is clearly of opinion that the award made by the Tribunal in favour of the claimant cannot be said to be low or inadequate so as to warrant interference in appeal and there appears no scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

**[DINESH MAHESHWARI], J.**

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